

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0106P

Use Tax

Calendar Years 1995, 1996, and 1997

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

At audit, it was determined that the taxpayer filed Indiana Income tax returns but failed to remit tax on purchases utilized in Indiana. Taxpayer has a business location in Indiana and reports commissions and fees from the Indiana locations on its IT-20 Income tax return. Taxpayer began selling tangible personal property during 1998 and has applied for registration with the Department of Revenue.

Taxpayer failed to remit use tax on clearly taxable items.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that no use tax accrual system was in place and the taxpayer was not registered with the department.

Taxpayer states it does not generate any retail sales from Indiana and it was not aware of the obligation to remit use tax on purchases from out of state vendors. Further, following receipt of the audit findings, it completed the necessary registration forms and is now set up to remit the required taxes on a quarterly basis. Based on the above, and its cooperation in complying with all of the auditor's requests for information, it requests a waiver of the penalties assessed.

Taxpayer made no attempt to self assess use tax on taxable purchases although there is a line on the tax return on which to report the tax due. In addition, the taxpayer removed the sales tax that was billed on an invoice and did not remit use tax.

Taxpayer was negligent in failing to report taxable purchases.

FINDING

Taxpayer's protest is denied.